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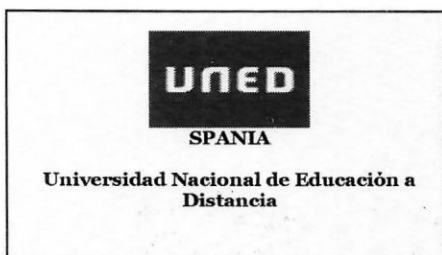
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Norms, Values and Contemporary Landmarks**

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SOME CONSIDERATIONS ON THE RIGHT TO HEALTH - ONE OF MAN'S FUNDAMENTAL RIGHTS

Oana ȘARAMET*

Abstract: The right to life is guaranteed to every human being, much like the right to physical and psychological integrity. In order to fully exercise these rights, the human being must truly enjoy good health. As any human has the right to life, he has the right to health and the protection of health. Thus, any human being has the right to a healthy life and the state, much like regional and international organizations, must ensure the necessary background in order for the people to exercise this right. Also, in case of health issues, any person must be ensured the minimum necessary conditions in order to treat any health issues. It may seem counterintuitive, but the right to health was proclaimed on an international level by a document elaborated before the Universal Declaration of Human Rights. However, most people usually struggle to maintain good health, especially in the least developed countries, by pursuing a fight not only to maintain their health but also to protect it. It is essential not only to acknowledge, protect, even guarantee this right by international regulations or even constitutions, as such a fundamental right allows any human being to fully exercise this right. Thus, creating medical systems and medical insurance systems must allow every human being access to a minimal package of medical services, which are essential and necessary in order to exercise the right to health and the protection of it.

Keywords: fundamental right, health, protection of health, regulation, equality

Different documents, such as declarations or petitions of rights, charters or conventions, acknowledge not only the fact that all human beings are equal in rights, but also the natural character of this right in the 20th century. Thus, by the Declaration of Rights of the State of Virginia¹ it was stated from the very beginning, in article 1, that all humans are equally born free and independent: they all have sure, certain, essential and natural rights of which their descendants can't be deprived by any sort of contract: these are the right to enjoy life and freedom,... to search and achieve happiness and safety. In order to strengthen those previously mentioned, it is clearly stated that governance must be performed for the common good, in order to ensure the safety and protection of the people, the nation or the community, as the best form of governance is the one which can ensure the highest degree of happiness and safety and which is essentially free from any poor management².

Similar are the provisions of the Declaration of the rights of man and of the citizen³ of France's National Constituent Assembly which states, in article 1, first thesis, that all

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¹ Virginia Bill of Rights, a document whose author is largely George Mason who presented it at the Virginia State Convention in the Capitol Building in Williamsburg; it was unanimously passed by the members of the Fifth Convention of the State of Virginia, on June 12th, 1776. This declaration of rights was initially passed as a document which was separate from the constitution of Virginia which was subsequently passed June 29th, 1776; in 1830 it was integrated in the Constitution of the State of Virginia. This Convention was accessed at <https://www.history.org/Almanack/life/politics/varights.cfm>, on 20.04.2017.

² Virginia Bill of Rights, article 3, first thesis.

³ The Declaration of the rights of man and of the citizen was finally passed August 26th, 1789 by France's National Constituent Assembly and it was acknowledged by King Louis XVI on October 3, 1789; it was drafted up as a declaration of fundamental principles which would be the basis of a new constitution. The Declaration is currently in force.

people are born and remain free and equal in rights; article 2 states that the purpose of every political association (as are states) is to preserve the natural and inalienable rights of man, namely freedom, property, safety and resistance to oppression. The Declaration states that exercising the natural rights of man has no other limitation than those which ensure the other members of society the use of the same rights, as the law can only forbid, according to article 5, actions which harm society.

Subsequently, the preamble of the Universal Declaration of Human Rights⁴, stated, by the voice of the representatives of United Nations member states in the General Assembly, that acknowledgement of equal and inalienable rights to all members of the human family, as well as human dignity, as a fundament of freedom, justice and peace in the world, has determined the passing and proclaiming of this declaration. By article 1 of this Declaration, the United Nations has stated that all human beings are born free and equal in dignity and rights and are endowed with reason and conscience and should act towards one another in the spirit of brotherhood. In order for any human being to enjoy these rights, by fully exercising them, an essential condition must be met, namely that those rights be protected by the authority of the law in order to prevent the person from undergoing extreme measures, such as rebellion against tyranny and oppression⁵.

By the previously mentioned provisions and not only those, the declaration of rights acknowledges the natural character of fundamental rights which are inherent to every human being, thus reviving the modern theory of natural right. The founder of this theory, Hugo Grotius, identifies "natural right with natural law, stating that the latter is common to all people and all humans (when we consider humans as such, by excluding the civil societies whose members they are)"⁶. Hugo Grotius considers "natural law as a part of human nature, previous to any convention, independent of any willful element"⁷, but with a unique source, namely, "the rational nature of man"⁸.

As stated in specialty doctrine, but also in different legal documents, passed and proclaimed across time, we believe that all humans are born equal and the fundamental rights, as acknowledged and declared by such documents, are true facts with which people are born, as they can only be natural to every human being⁹, whereas the states and international organizations have the permanent and continuous task of "building" the

⁴Universal Declaration of Human Rights, preamble, first paragraph. It was passed by the General Assembly of the United Nations, December 10th, 1948, comprised in Resolution 217 A/III. This Declaration was accessed at http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/rum.pdf; on 21.04.2017.

⁵The Universal Declaration of Human Rights, preamble, paragraph 3.

⁶Răţulea, Gabriela, *De la omul natural la masina politică: Suveranitate și putere la Thomas Hobbes (From natural man to political machine: Sovereignty and power at Thomas Hobbes)*, Infomarket Publishing House Brasov, 2006, page 16.

⁷*Ibid.*

⁸Grotius, Hugo, *Despre dreptul războiului și al păcii (Law of war and peace)*, Science Publishing House, Bucharest, 1968, page 108.

⁹As for the legal nature of fundamental rights, especially those of the citizens, doctrine expressed several points of view; it is however obvious that the support of the school of natural law, according to which these are connected to human nature, is not accepted. Thus, an author distinguished between two ideas regarding man's rights. One idea emphasizes the fact that these rights are subjective rights and, as any such rights, are guaranteed by. In other ideas, fundamental rights are not considered to be provided at birth, as the idea of the social contract was abandoned; thus, man is the only free and responsible human being; the specific of these rights is the fact that their exercise can be limited by state power. In regard to this last idea, we believe that such a support can't be valid nowadays, as rights are protected by national laws, especially when such rights as the right to health and its protection, can't be exercised without "performing positive actions" in the use of people. See Deaconu, Ștefan, *Drept constituțional (Constitutional law)*, C. H. Beck Publishing House, Bucharest, 2011, pages 192-193.

necessary background in order to exercise these rights and freedoms. On the other hand, doctrine points out that the phrasing of these rights is contingent and depends on political decisions¹⁰, which is why they are in a constant state of evolution; thus, these rights can't be phrased as such, there is no creation activity, but only one which acknowledges “the right to be human” as a permanent value which is previous to any political act¹¹.

By article 3, the Universal Declaration of Human Rights acknowledges every human being's right to life, freedom and personal security. Article 25 regulates the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing, medical care and necessary social services and the right to security in the event of unemployment, sickness, widowhood, disability, old age or other lack of livelihood in circumstances beyond his control. Thus, the Universal Declaration of Human Rights does not acknowledge, *expressis verbis*, every human being's right to health and the protection of his health, but it does so indirectly by regulating the right to life and to a standard of living which ensures proper health, medical care, but also the right to insurance in case of sickness or disability.

It is no surprise that this right is not expressly written in the Universal Declaration of Human Rights, if we consider the fact that in 1946, the World Health Organization's Constitution¹², was signed; the preamble of this document, namely the second paragraph, states that the right to enjoy the highest possible standard of life is a right of every human being without discrimination based on race, religion, political belief, economic or social condition. The Constitution also states that the health of all people is fundamental in order to maintain world peace and security, as this depends on the full cooperation of the people and the states¹³; any accomplishment of any state in regard to the promotion and protection of health is acknowledged as a value of all states¹⁴. The Constitution defines the main objective of the World Health Organization in article 1, namely the attainment by all peoples of the highest possible level of health¹⁵.

¹⁰ By the Declaration of Independence of the United States of America, the following are considered to be general truths “the fact that all people were born free, equal and gifted by the creator with certain inalienable rights, such as the right to Life, Freedom and the pursuit of Happiness”, but also the fact that “in order to ensure these rights, the People will form Governments, which will use their just powers to the benefit of the people they govern”. On July 4th, 1776, the Congress of the United States unanimously voted by the representatives of the 13 states, the final version of the document, known as the Declaration of Independence of the United States. See Kimpián, Annamária, „The Declaration of Independence of the United States of America in the collection of the Teleki-Bolyai Library”, article accessed at <http://www.bjmu.ro/bdPublicatii/Lucrari/Kimpian-DeclaratiaSUA.pdf>, on 21.04.2017. This Declaration was accessed at: <https://www.archives.gov/founding-docs/declaration-transcript>, on 21.04.2017.

¹¹ Sudre, Frédéric, *Drept european și internațional al drepturilor omului (International and European law on human rights)*, Polirom Publishing House, Iași, 2006, page 46.

¹² This Constitution was passed during the International Health Convention, which took place in New York between June 19th - July 22nd, 1946, by the representatives of the 61 states which participated and came into force April 17th, 1948. Subsequently, several amendments were passed by the General Assembly of the World Health Organization, as the last one came into force September 15th, 2005. This Declaration was accessed at http://www.who.int/governance/eb/who_constitution_en.pdf, on 20.04.2017.

¹³ World Health Organization Constitution, Preamble, paragraph 3.

¹⁴ World Health Organization Constitution, Preamble, paragraph 4.

¹⁵ In order to achieve this objective, article 3 of the Constitution states the 22 functions of the World Health Organization such as: that of acting as the directing and coordinating authority on international health work (letter a), that of assisting Governments, upon request, in strengthening health services; that of suggesting (letter c); that of proposing conventions, agreements and regulations, and make recommendations with respect to international health matters and to perform such duties as may be assigned thereby to the Organization and are consistent with its objective (letter k); that of promoting and conduct research in the field of health (letter n); or that of providing information, counsel and assistance in the field of health (letter q).

On the other hand, by developing the provisions of the Universal Declaration of Human Rights, in the International Covenant on Economic, Social and Cultural Rights¹⁶, namely article 12, first paragraph, the right of every human being to enjoy the best physical and mental health he can achieve¹⁷ was regulated *expressis verbis* by the United Nations.

On a regional level, member states of organizations which promote and protect human rights had a different approach in regard to the express regulation of these rights in the conventions, declarations or charts regarding human rights. Thus, in the American Convention on Human Rights¹⁸ such rights are not regulated *expressis verbis*; however, the fourth paragraph of the preamble of the convention acknowledges the fact that the principles considered when the Universal Declaration of Human Rights was created were considered and also that these rights were reaffirmed and reconsidered by using international and regional tools with the same purpose. Also, the convention acknowledges, by articles 4 and 5, every person's right to life, as well as the right to the respect of physical, psychological and moral integrity. All these allow us to appreciate that indirectly it acknowledges the right to health; furthermore, article 26 regulates state's positive obligation to regulate measures, both on a national level and in case of international cooperation to ensure, by means of law or any other adequate means, the progressive and full accomplishment of the rights from the economic, social, educational, scientific and cultural rights, in order to correspond to standards established by the Charter of Organization of American States¹⁹.

The American Convention on Human Rights reflects the effort of its authors to provide a minimal standard of decency for the states of the American continent in regard to the "treatment" of people, an effort which is, in many ways, similar with that of the parents of the Universal Declaration of Human Rights²⁰. However, there are significant differences

¹⁶ This Pact was passed and signed by the General Assembly of the United Nations on December 16th, 1966, by Resolution 2200 A (XXI), which came into force January 3rd, 1976, according to article 27.

¹⁷ The same article, by paragraph 2, states that the measures that member states will adopt in order to allow the full exercise of this right will comprise the following measures, needed to ensure: a) the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; b) the improvement of all aspects of environmental and industrial hygiene; c) the prevention, treatment and control of epidemic, endemic, occupational and other diseases; d) the creation of conditions which would assure to all medical service and medical attention in the event of sickness.

¹⁸ This Convention was passed during the Inter-American Conference specialized on Human Rights, on November 22nd, 1969 in San José, Costa Rica and came into force July 18th, 1978. It is currently acknowledged by 25 states of the American continent. This Convention was accessed at <http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>, on 21.04.2017.

¹⁹ Given all these, on November 17th, 1998 in San Salvador, the Additional Protocol to the American Covenant on Economic, Social and Cultural Rights, the so-called San Salvador Protocol, which came into force November 16th, 1999 and which regulates, in article 10, the right to health. According to these provisions, any person is entitled to a good state of health, a right which is seen as the possibility of each individual to enjoy the highest possible level of his physical, psychological and social welfare. In order to ensure the exercise of this right, member states decided to acknowledge health as a public good and agreed that they will adopt certain measures in order to ensure the exercise of this right, such as: access of any individual or family of the community to primary medical care, namely basic medical care; extensive medical care benefits for all people who are under the jurisdiction of one of the member states; ensuring universal immunization against the main infectious diseases; prevention and treatment of endemic and professional disease; education of the people in regard to the prevention and treatment of health issues; covering the medical care requirements of people who have the highest degree of becoming sick, as well as those who are poor and vulnerable to sickness. This protocol was accessed at <http://www.oas.org/juridico/english/treaties/a-52.html>, on 21.04.2017.

²⁰ Diab, Joseph, „NOTES. United States ratification of the American Convention on Human Rights", a study published in *Duke Journal of Comparative & International Law*, Volume 2:2, spring 1992, page 327, accessed at: <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1318&context=djcl>, on 20.04.2017.

between the two documents, namely the fact that the standards set by the Universal Declaration of Human Rights did not create legal responsibilities and obligations, whereas this convention creates legal obligations²¹ which the USA wants to assume²² although acknowledging this convention and its subsequent enforcement would serve the interest of this state quite well²³. We believe that such an action would contribute to the acknowledging, even in an indirect manner, of the right to health and its protection especially since, on a constitutional level, the USA is one of the 80 states which do not guarantee, by own constitutional provisions, any kind of protection of people's health²⁴.

In regard to the European continent, as for the legal regulation of the right to physical health and its protection, we will notice the lawmaker is rather inconsistent; however, we can appreciate that this is an evolution. Thus, if the European Convention on Human Rights and Fundamental Freedoms²⁵ does not regulate any such right²⁶ *expressis verbis*, the task of identifying these rights being that of the European Court of Human Rights by its jurisprudence²⁷ concentrated on the right to respect of private and family life. Thus, the

²¹ *Idem*, pages 327-328.

²² Although this convention was signed by American president Jimmy Carter in 1978, it was not passed until the present time, according to the provisions of chapter V of the Constitution of the United States of America. See Diab, Joseph, *op. cit.*, pages 324-325; <http://www.cidh.oas.org/basicos/english/Basic4.Amer.Conv.Ratif.htm>, as well as https://www.constituteproject.org/constitution/United_States_of_America_1992?lang=en, accessed on 21.04.2017.

²³ Diab, Joseph, *op. cit.*, page 325.

²⁴ See Wheeler, Mark, *A constitutional right to health care. UCLA-led study shows that many countries have it, but not the U.S.*, page 1, article accessed at: <http://newsroom.ucla.edu/releases/a-constitutional-right-to-health-247449>, on 20.04.2017.

²⁵ The European Convention on Human Rights and Freedoms was signed in Rome on November 4th, 1950 and came into force September 3rd, 1953, passed by the European Council (the text of this Convention was last modified in accordance with the provisions of the 14th Protocol). The Charter of Fundamental Rights of the European Union will be proclaimed almost half a century later, December 7th, 2000, during the European Council in Nice; it was later adapted on December 12th, 2007 in Strasbourg and, according to article 51 of the European Union Treaty, it became a part of the Lisbon Treaty of December 13th, 2007 which changed the European Union Treaty and the Treaty for the European Community, came into force December 1st, 2009. As stated in article 6 the third paragraph of the European Union Treaty, fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law; by its jurisprudence the Luxembourg Court of Justice invokes the jurisprudence of the Strasbourg Court of Justice. The drafting of the Charter of the Fundamental Rights in 2000 allowed all European institutions involved in this process to find inspiration in the European Convention, as well as other conventions, in the jurisprudence of courts of international organizations of human rights, such as the fundamental rights and freedoms are fully adjusted to the new economic, cultural, political and social realities, including by expressly stating some rights, as the right to the protection of health which was not considered by the 1950 Convention.

²⁶ Given all these, we must mention that the European Council passed the European Social Charter in Strasbourg, May 3rd, 1996, a document which acknowledged two rights in regard to health: the right to the protection of health (article 11 states that every person has the right to benefit from all measures which allow him to enjoy the best possible state of health), as well as the right to medical and social assistance (article 13 states that any person without resources has the right to social and medical assistance). Unlike other rights regulated by the Charter, these rights along with others, are acknowledged not only to workers. This document was accessed at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168047e170>, on 22.04.2017.

²⁷ Thus, in one of the cases, the plaintiff wanted to end a pregnancy by abortion after, as a result of an ultrasound performed in the 18th week of pregnancy, she was informed by her physician that the fetus might be malformed. In this case, the plaintiff stated that, in order to be sure of the existence of the medical condition and to be able to prove that the situation is one of the rare cases in which Polish law allows an abortion, she must undergo a genetic exam (amniocentesis); however her physician refused to perform genetic tests; he also refused to end the pregnancy by abortion. In the end, only one physician agreed to perform the genetic test during the 23rd week of pregnancy; it took two more weeks for the result to come back and they confirmed the fetus had a medical condition. However, at this stage, the doctors maintained

ECHR ruled that positive obligations of member states for the effective protection of the right to life are applied in matters of public health²⁸ as well, „under certain conditions, the protection of physical integrity being above the right to health²⁹. As opposed, the United Nations Charter of Fundamental Rights acknowledges, by article 35, the existence of the right to protection of health, namely every person’s right to have access to prevention medical assistance and medical care, according to national laws and practices; however, the UN requires member states to ensure a high level of protection of human health, by its actions and politics.

According to article 16 of the African Charter of Human Rights and Peoples Rights³⁰ (Banjul), which regulates the right to physical and psychological health of the highest degree possible, as each party who signs the charter is required to take the necessary measures in order to protect the health of its peoples and to ensure that each one will receive medical assistance in case of sickness. The charter emphasizes the protection of the integrity of family, by stating in article 18 first alignment, the positive obligation of the state to protect the health of the family, which is seen as the main unit of society; the elder citizens and the disabled will be acknowledged the right to helpful measures, according to their physical and moral necessities, as stated in the second alignment.

The Islamic Declaration of Human Rights³¹ does not acknowledge expressis verbis, a right to health and/or the protection of it, but by legally regulating the right to social security, the right to food, shelter, clothing, education and health within the limits set by the resources of the community. It also regulates the positive obligation of the community to

their refusal to perform an abortion, by pointing out that she was too far along to end the pregnancy, as the Polish law allows such a medical procedure “until the fetus has the possibility to survive outside of the mother’s body”. In the end, the child was born with Turner syndrome. On a national level, the Polish courts of law acknowledged the mother was entitled to an amount of money as restitution for the fact that she was illegally denied the right to undergo the genetic tests and her right to be informed of the tests’ results was violated. In this case, ECHR stated that article 8 of the convention must protect the individual against arbitrary intervention of the public authorities, as any such intervention must be justified according to the second paragraph of article 8, namely it must be “in accordance with the law” and “necessary in a democratic society” for one or more legitimate purposes. By its constant jurisprudence, ECHR ruled that the notion of necessity entails the fact that the interference from the public authority corresponds to a pressing social need and is proportional to one of the legitimate objectives of the authority. Furthermore, there are positive obligations inherent to the respect of public life, obligations which can imply the state undergoing measures meant to ensure the protection of private life even in inter-personal relations, including by creating a general legal background, thus ensuring efficient and accessible means of protecting the right to a private life. In the context of negative obligations, the state enjoys a certain margin of appreciation in regard to establishing the circumstances in which an abortion can be performed in a certain state; however, once the decision was made, the legal background should allow for the consideration of all reasons in a coherent manner and in accordance with the obligations stated in the Convention. See *R. R. v. Poland*, no. 27617/04, decision form 26.05.2011, §6-63, §183, §184, §185, §187, §188 ECHR 2011-R, accessed at: <http://hudoc.echr.coe.int/eng?i=001-104911>, on 22.04.2017, as well as <http://www.hotararicedo.ro/index.php/news/2011/06/dreptul-la-avort-art.-3-i-8-cedo-accesul-la-informail-medicale-i-efectivitatea-dreptului-de-a-cere-ntreruperea-sarcinii>, accessed on 22.04.2017.

²⁸ Bărsan, Corneliu, *Convenția europeană a drepturilor omului. Comentariu pe articole. Vol. I Drepturi și libertăți (European Convention of Human Rights. Comments by articles. Volume I Rights and freedoms)*, C.H. Beck Publishing House, Bucharest, 2005, page 179.

²⁹ See Renucci, Jean-François, *Tratat de drept european al drepturilor omului (European law of human rights treaty)*, Hamangiu Publishing House, Bucharest, 2009, page 242.

³⁰ This Charter was passed in Nairobi, June 27th, 1981 and came into force October 21st, 1986. An additional protocol was passed June 10th, 1998 and came into force January 25th, 2005. The Charter is currently acknowledged by 53 states. It was consulted at <http://www.achpr.org/instruments/achpr/>, on 22.04.2017.

³¹ This declaration was drafted up by the Islamic Council, affiliated to the Muslim World League, passed and acknowledged in 1981 and presented to UNESCO, as mentioned at <http://oxfordindex.oup.com/view/10.1093/oi/authority.20110803114737119>. The Declaration was consulted at: <http://www.alhewar.com/ISLAMDECL.html>. Both online sources were accessed on 22.04.2017.

ensure the right to health to people who are unable to look after themselves as a result of temporary or permanent disability. Also, article 17 letter b of the Cairo Declaration on Human Rights in Islam³² acknowledges every person's right to medical and social assistance, as well as access to public facilities ensured by the state, within the limits of its resources. We must notice that, even though this provision does not regulate expressis verbis the right to health, it indirectly acknowledges it by stating the right to medical assistance; the same article regulates every person's right to a clean and healthy environment, the right to a decent living, as this final right includes the right to a good state of health. Thus, the dimensional plurality of the right to health and the protection of it is legally reflected and it should include, in order to be a complete right, the right to health, especially from a medical point of view, but also the right to a healthy environment a decent living³³.

By analyzing 14 constitutions of UN states, we noticed that there is no uniformity in regard to the inclusion in the constitution of a declaration of rights³⁴, as some states prefer to “use” the block of constitutionality³⁵, namely if such a statement is found in the constitution, we can discuss the expressis verbis regulation³⁶ or not³⁷, of a right to health and/or the protection of it.

By reading the international, regional and national regulations in regard to human rights, including some which contain provisions regarding the right to health and/or its protection, we believe that this natural right of man is diversely regulated whether by express regulation of the right to health and/or its protection or by the need to legally interpret this right in order to deduce that it is acknowledged; both on an international level an on a national level, directly or indirectly, the right to health and/or its protection is acknowledged as a complex right not only from a medical point of view but also in regard to ensuring a healthy environment and a decent living for every human being; this right can be seen as an individual one which belongs exclusively to the individual and its exercise

³² The Islamic Declaration of Human Rights, known as the Cairo Declaration, was passed in Cairo, August 5th, 1190 during the Islamic Convention of foreign ministers of the member states of the Organization of Islamic Cooperation (also known as Organization of Islamic Conference - OIC). IT was accessed at http://www.bahaistudies.net/neurelism/library/Cairo_Declaration_on_Human_Rights_in_Islam.pdf, on 22.04.2017. For more details, see: Olayemi, Abdul Azeez Maruf; Alabi, Abdul Majeed Hamzah; Buang, Ahmad Hidayah, „Islamic Human Rights Law: A critical evaluation of UIDHR & CDHRI in context of UDHR”, article published in: *Journal of Islam, Law and Judiciary*, Volume 1, Issue 3, 2015, page 32 and the following, consulted at: https://www.researchgate.net/profile/Abdul_Azeez_Olayemi/publication/281120061_Islamic_Human_Rights_Law_-_A_Critical_Evaluation_of_UIDHR_CDHRI_In_Context_Of_UDHR/links/55d7682608ae9d65948d8df6.pdf, on 22.04.2017.

³³ Cloșcă, Ionel; Suceavă, Ion, *Tratat de drepturile omului (Human Rights treaty)*, Europa Nova Publishing House, Bucharest, 1995, page 293 and following.

³⁴ Thus, the Austrian Constitution does not have a catalogue of these rights, as it regulates constitutional principles in the matter of human rights, as that of equal rights. This Constitution, much like the other constitutions used in this analysis were accessed at <https://www.constituteproject.org/search?lang=en>, on 22.04.2017.

³⁵ Such states are France and the Czech Republic which, directly or indirectly, regulate the right to health. Thus, for example, article 31 of the Czech Charter of Human Rights and Freedoms acknowledged right to the protection of health to all people. This Charter was accessed at http://www.usoud.cz/fileadmin/user_upload/ustavni_soud_www/Pravni_uprava/AJ/Listina_English_version.pdf, on 22.04.2017.

³⁶ Such Constitutions are: Bulgaria (article 52), Croatia (article 59 and article 70), Greece (article 21 third alignment), Estonia (article 28), Italy (article 32) or Romania (article 34).

³⁷ Such Constitutions are: Belgium (article 23 – the right to a dignified life), Cyprus (article 7 and article 9 – the right to life and the right to a decent existence), Finland (article 7, article 19 and article 20 – the right to life, the right to social protection and the right to environmental protection), Germany (article 1 and article 3 – regarding human dignity, namely equal rights), Ireland (article 40 and article 45 point 4.2 – equal rights, the right to medical insurance for all workers).

can't be restricted except for exceptional situations and conditions, as regulated by laws, but also as a collective right which entails any peoples, human communities, as in both cases the states have the positive obligations to ensure a public system of health which provides minimal medical services for any human being; thus, we believe it is necessary to call this right the right to health and the protection of it.

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